

# POLICIES AND PROCEDURES FOR CERTIFIED DIESEL EMISSIONS RETESTERS

## Definition of Terms

The following terms have the meanings indicated.

- (1) “Audit” means a periodic quality assurance check, performed by the Division or the Department, on equipment and personnel regulated under COMAR 11.21.02.
- (2) “Auditor” means an employee of the Division or the Department who performs audits.
- (3) “Certificate” means a Diesel Emissions Certificate issued to an individual by the Division allowing the individual to conduct retests and certify safety equipment repair orders issued for vehicles that fail to meet the emissions standards for smoke opacity under COMAR 11.21.02.
- (4) “Department” means the Maryland Department of the Environment.
- (5) "Diesel vehicle" means a motor vehicle that:
  - (a) Is powered by a compression ignition engine; and
  - (b) Has a manufacturer's gross vehicle weight rating or gross combination weight rating over 10,000 pounds.
- (6) “Division” means the Automotive Safety Enforcement Division of the Maryland State Police.
- (7) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background, expressed as a percent, as measured by emissions test equipment under COMAR 11.21.02.08.
- (8) “Facility” means a diesel vehicle repair facility located in Maryland where the primary business is the repair, rebuild, or reconditioning of diesel vehicle engines for the public at a charge and that has an enclosed facility at least 12 feet wide by 40 feet long.
- (9) “Retest” means a diesel vehicle smoke opacity emissions test conducted for the purpose of certifying a Safety Equipment Repair Order (SERO) that has been issued for a diesel vehicle that has violated smoke opacity emissions standards in compliance with Transportation Article, §§23-401—23-404 and COMAR 11.21.02.
- (10) “Retester” means a Certified Diesel Emissions Retester who has been certified by the Division to conduct Retests.
- (11) "SAE J1667" means the emissions test described in document number J1667 published by the Society of Automotive Engineers in February 1996, entitled “Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles,” which is incorporated by reference in COMAR 11.21.02.03.

## **Initial Application for Certification as a Diesel Emissions Retester**

To qualify for a Diesel Emissions Retester certificate, an individual shall:

- Be at least 18 years old
- Be employed at a facility at least 30 hours per week where retests will be performed
- Receive a grade of at least 80% on the an examination given by the Division for applying to perform retests;
- Demonstrate to the Department the ability to conduct a retest using the equipment available at the facility at which the applicant is employed;
- And successfully complete an application form for becoming certified as a retester as provided by the Department, which is complete, legible and bearing the applicant's signature in ink; and
- Submit the application to a representative of the Division at the time of the examination mentioned above.

## **Employment Requirements**

Within 10 days of becoming certified as a Retester, the Retester shall be available for duty during regular daytime business hours at least 30 hours per week at the facility at which retests are to be conducted. Retesters are certified to conduct retests at only one facility. If a Retester does not gain employment within 10 days of becoming certified as a Retester, the Retester shall surrender the Diesel Emissions Retester Certificate and all other materials issued by the Department or the Division to the Department.

## **Facility and Equipment Requirements**

A facility at which retests are conducted shall:

- Contain a permanent, enclosed area at least 12 feet wide and 40 feet long;
- Possess emissions testing equipment which meets the requirements under COMAR 11.21.02.07 and which is located on the business premises of the facility;
- Possess at least one set of wheel chocks which is located on the business premises of the facility; and
- Possess at least one copy of the following documents, which must be maintained at the authorized diesel emissions inspection facility:
  - (i) SAE J1667,
  - (ii) COMAR 11.21.02, and
  - (iii) Transportation Article, §§23-401—23-404.

The Department may add or delete emissions test equipment and tools from those set forth under this policy by notifying Retesters in writing and requiring them to obtain the additional equipment within 90 days of the written notification.

If any tool or emissions test equipment required under this policy is found to be inoperative, the Retester shall have the equipment repaired or replaced within 72 hours. During this time, retests or repair order certifications requiring the use of the inoperative equipment may not be performed. If the tool or emissions test equipment is not repaired or replaced within 72 hours, the Retester shall remove the Diesel Emissions Retester facility sign from public view. All other materials issued by the Department or the Division may be retained by the Retester. However, no retests or repair order certifications may be performed. If the tool or emissions test equipment is not repaired or replaced within 90 days, the Diesel Emissions Retester Certificate shall be suspended or revoked and all materials issued by the Department or the Division returned to the Department, except where a valid back order receipt is in evidence.

For all equipment required under this policy and COMAR 11.21.02, a Retester shall follow, at a minimum, the manufacturer's specifications for maintenance and calibration, and the procedures established by the Department.

### **Agreement of Certified Diesel Emissions Retester**

Upon compliance with the requirements under this policy and being certified as a Retester, the Retester shall:

- Perform a retest of a diesel vehicle at the request of a diesel vehicle owner, dealer, or agent;
- Ensure that he or she fills out completely and properly the retest safety equipment repair order;
- Agrees to comply with all applicable laws, ordinances, and regulations for the jurisdiction in which the facility at which retests are performed is located;
- Agrees to comply with the requirements under this policy, COMAR 11.21.02, and Transportation Article, §§23-401—23-404; and
- Discontinue inspections and notify the Division and the Department of the following circumstances and may not resume retesting until authorized to do so by the Division:
  - (1) Change in location of the facility;
  - (2) Any change to the facility which decreases the size or permanence of the facility used to conduct retests, which does not allow the retester to meet the requirements to be a Retester;
  - (3) Any circumstance which prevents a complete retest or repair order certification;
  - (4) Change of Employment;
  - (5) Stolen, lost, or damaged Diesel Emissions Retester Certificate, signs, or records pertaining to retests or retesting equipment.

The Retester shall also understand and acknowledge that the Diesel Emissions Retester Certificate, although issued and delivered to the individual, shall at all times be the property of the State and may be revoked, suspended, or refused for the reasons provided in this policy and COMAR 11.21.02 and, upon revocation, suspension, or refusal, the Retester shall surrender the Certificate and all related materials issued by the Department or the Division to a representative of the Department or the Division upon demand.

### **Responsibility of Retester**

A person who becomes certified as a retester shall only conduct retests at one facility according to the requirements under this policy and COMAR 11.21.02 and shall only certify safety equipment repair orders issued for violations of the emissions standards under COMAR 11.21.02 and only after a vehicle has successfully passed a retest.

## **Notice and record keeping requirements**

The Retester shall display the Diesel Emissions Retester facility sign on the facility property in a manner visible to the public on the main thoroughfare where the business is located. The Retester shall also display the Diesel Emissions Retester Certificate and the maximum fee for a retest prominently in public view at the facility.

All records pertaining to the Diesel Vehicle Emissions Control Program shall be kept for a period of at least 4 years. A log of diesel emissions testing equipment calibrations in a form approved by the Department, diesel vehicle safety equipment repair orders, analyzer printouts, and other documents prepared by the Retester for retests, and certifications of safety equipment repair orders. The Retester shall maintain all records required under this policy separately, in chronological order and in a format approved by the Division and the Department at a location approved by the Division and the Department, and shall make the records available for inspection upon the request of a representative of the Division or the Department.

## **Auditing**

The performance of a retester may be periodically reviewed or audited by the Division or the Department, either overtly or covertly. The Retester and the facility at which the Retester is employed shall make available to the Division or the Department, as required, retest equipment and personnel to assist in audits performed by representatives of the Division or the Department. A Retester's or facility's failure to permit personnel of the Division and the Department on the premises of the authorized diesel emissions retest facility during regular business hours for the purposes of conducting an audit shall be cause for suspension or revocation of the Diesel Emissions Retester Certificate. Audits conducted by personnel of the Division or the Department may include, but shall not be limited to, discussions with customers, examination of tools and equipment required under this policy, questioning of employees and the employment of overt and covert investigations.

## **Administrative Penalties**

The following penalty schedule shall apply to Retester's that violate the requirements under this policy:

- (1) For certifying a safety equipment repair order for a diesel vehicle which fails to comply with the applicable emissions standards:
  - (a) First violation: six month certification suspension;
  - (b) Second violation: two year certification suspension;
  - (c) Third violation: lifetime certification suspension.
- (2) For misrepresentation on application (fraud or misrepresentation in securing the certificate): three-year certificate denial.
- (3) For fraud or misrepresentation in the conduct of the certified-allowable activity:
  - (a) First violation: immediate two-year certificate suspension;
  - (b) Second violation: immediate four-year certificate suspension;
  - (c) Third violation: lifetime certificate revocation.



- (4) For issuance or possession of altered, forged, stolen, or counterfeit certified safety equipment repair orders:
  - (a) First violation: two-year certificate suspension;
  - (b) Second violation: four-year certificate suspension;
  - (c) Third violation: lifetime certificate revocation.
- (5) For furnishing, lending, giving or selling a certified safety equipment repair order without performing the retest:
  - (a) First violation: two-year certificate suspension;
  - (b) Second violation: four-year certificate suspension;
  - (c) Third violation: lifetime certificate revocation.
- (6) For failing to produce records required under this policy: immediate certificate suspension until compliance.
- (7) For fraudulent record keeping:
  - (a) First violation: immediate two-year certificate suspension;
  - (b) Second violation: immediate four-year certificate suspension;
  - (c) Third violation: lifetime certificate revocation.
- (8) For failure to post certificate:
  - (a) First violation: written warning;
  - (b) Second violation: 20-day certificate suspension;
  - (c) Third and subsequent violations: two-month certificate suspension.
- (9) For failure to post outdoor sign:
  - (a) First violation: written warning;
  - (b) Second violation: 20-day certificate suspension;
  - (c) Third and subsequent violations: two-month certificate suspension.
- (10) For failing an audit, a Retester's certification may be immediately suspended until compliance is met.